

2009 DRAFTING REQUEST

Bill

Received: **01/23/2009**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wavrunek**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Correctional System - misc**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Wavrunek, BB0520 -

Topic:

Sentence Adjustment for Class C to I felonies

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 01/23/2009			_____			S&L
/P1	phurley 01/24/2009 phurley 01/25/2009	chanaman 01/23/2009 jdye 01/24/2009 wjackson 01/25/2009	phenry 01/24/2009	_____	chanaman 01/25/2009		S&L
/P2	phurley 01/27/2009	nnatzke 01/28/2009	mduchek 01/25/2009	_____	chanaman 01/25/2009		S&L
/P3	phurley	nnatzke	mduchek	_____			S&L

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	01/28/2009 phurley	01/28/2009 jdye	01/29/2009				
	01/29/2009	01/29/2009					
/P4			jfrantze 01/29/2009		sbasford 01/29/2009		S&L
/P5	phurley 01/29/2009	wjackson 01/29/2009	phenry 01/30/2009		cdurst 01/31/2009		S&L
	phurley 01/29/2009	jdye 01/30/2009					
	phurley 01/30/2009						
/P6	phurley 02/01/2009	jdye 02/02/2009	mduchek 02/02/2009		cdurst 02/02/2009		S&L
/P7	phurley 02/02/2009	jdye 02/02/2009	mduchek 02/02/2009		cdurst 02/02/2009		

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Topic:

Compile 1664 and 1665

Instructions:

See attached

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/P1	phurley	chanaman 01/23/2009	<i>ph</i>	<i>ph / cmr</i>			
FE Sent For:		<i>p2 wly 1/25</i>	<i>ph</i>				

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1768/P1

PJH
JL
WJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

X

Don't gen

1

AN ACT ...; relating to: relating to the budget; the budget

Analysis by the Legislative Reference Bureau

*** ANALYSIS FROM -1664/P1 ***

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Currently, the Parole Commission in DOC determines whether, and under what conditions, inmates serving indeterminate sentences may be released from imprisonment to parole. A person who is serving a bifurcated sentence is not eligible for parole and generally must serve the entire confinement portion of his or her bifurcated sentence before being released to extended supervision. However, a person who is sentenced to a bifurcated sentence for a Class C to Class I felony may petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement in prison portion of the sentence. Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under the bill, the Parole Commission is renamed the Earned Release Review Commission. In addition to its duties under current law, the Earned Release Review Commission may release to extended supervision: 1) a person convicted of a violent Class F to Class I felony after he or she has served 75 percent of the confinement portion of his or her sentence; and 2) a person convicted of any Class C to Class E felony if the person has served 85 percent of the confinement portion of his or her

sentence. The bill eliminates the authority of the sentencing court to adjust the confinement portion of a sentence.

The bill allows the Earned Release Review Commission to discharge a person convicted of a violent Class F to Class I felony after he or she has served 75 percent of the extended supervision portion of his or her sentence without violating a rule or condition of extended supervision. The bill allows the Earned Release Review Commission to discharge a person convicted of a Class C to Class E felony after he or she has served 85 percent of the extended supervision portion of his or her sentence without violating a rule or condition of extended supervision.

***** ANALYSIS FROM -1665/P1 *****

Under current law, a person sentenced under the "Truth in Sentencing" law serves a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community. With few exceptions, unless a person's sentence is adjusted by the sentencing court, a person may not be released to extended supervision until he or she has served the entire confinement portion of his or her sentence. A person's confinement portion may be extended if he or she violates a prison regulation. If a person's confinement portion is extended for a rule violation, current law requires the person's extended supervision to be reduced so that the total length of the person's sentence remains unchanged.

Under this bill, a person who is convicted of a nonviolent Class F to I felony must be released from confinement to extended supervision when he or she has served 75 percent of the confinement portion of his or her sentence, except that the confinement portion may be extended if the person violates a prison regulation. Under the bill, if a person's confinement portion is extended for a rule violation, the person's extended supervision is reduced so that the total length of the person's sentence remains unchanged.

Under current law, a person may not be discharged from extended supervision until after he or she serves the entire confinement portion and the entire extended supervision portion of his or her sentence.

Under this bill, a person who is convicted of a nonviolent Class F to I felony must be discharged from extended supervision when he or she completes 50 percent of the extended supervision portion of his or her sentence, if the person does not violate any rule or condition of his or her extended supervision.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

-1664/P1.1 SECTION 1. 15.01 (2) of the statutes is amended to read:

15.01 (2) "Commission" means a 3-member governing body in charge of a department or independent agency or of a division or other subunit within a

department, except for the Wisconsin waterways commission which shall consist of 5 members and the parole earned release review commission which shall consist of 8 members. A Wisconsin group created for participation in a continuing interstate body, or the interstate body itself, shall be known as a "commission", but is not a commission for purposes of s. 15.06. The parole earned release review commission created under s. 15.145 (1) shall be known as a "commission", but is not a commission for purposes of s. 15.06.

²
-1664/P1.2 SECTION 2. 15.06 (6) of the statutes is amended to read:

15.06 (6) QUORUM. A majority of the membership of a commission constitutes a quorum to do business, except that vacancies shall not prevent a commission from doing business. This subsection does not apply to the parole earned release review commission.

²
-1664/P1.3 SECTION 3. 15.145 (1) of the statutes is amended to read:

15.145 (1) PAROLE EARNED RELEASE REVIEW COMMISSION. There is created in the department of corrections a ~~parole~~ ^{an} earned release review commission consisting of 8 members. Members shall have knowledge of or experience in corrections or criminal justice. The members shall include a chairperson who is nominated by the governor, and with the advice and consent of the senate appointed, for a 2-year term expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m), and the remaining members in the classified service appointed by the chairperson.

²
-1664/P1.4 SECTION 4. 17.07 (3m) of the statutes is amended to read:

17.07 (3m) Notwithstanding sub. (3), the ~~parole~~ [✓] earned release review commission chairperson may be removed by the governor, at pleasure.

²
-1664/P1.5 SECTION 5. 20.410 (2) (title) of the statutes is amended to read:

20.410 (2) (title) PAROLE EARNED RELEASE REVIEW COMMISSION. [✓]

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 ***-1664/P1.6*** SECTION 6. 20.410 (2) (a) of the statutes is amended to read:

2 20.410 (2) (a) *General program operations.* The amounts in the schedule for
3 the general program operations of the parole earned release review commission.

4 ***-1664/P1.7*** SECTION 7. 20.923 (4) (b) 6. of the statutes is amended to read:

5 20.923 (4) (b) 6. Parole Earned release review commission: chairperson.

6 ***-1664/P1.8*** SECTION 8. 230.08 (2) (pd) of the statutes is amended to read:

7 230.08 (2) (pd) The chairperson of the parole earned release review
8 commission.

9 ***-1664/P1.9*** SECTION 9. 301.03 (3) of the statutes is amended to read:

10 301.03 (3) Administer parole, extended supervision and probation matters,
11 except that the decision to grant or deny parole or to grant extended supervision
12 under s. 304.06 (1) (b) to inmates shall be made by the parole earned release review
13 commission and the decision to revoke probation, extended supervision or parole in
14 cases in which there is no waiver of the right to a hearing shall be made by the
15 division of hearings and appeals in the department of administration. The secretary
16 may grant special action parole releases under s. 304.02. The secretary may
17 discharge inmates from extended supervision under s. 973.01 (4r). The department
18 shall promulgate rules establishing a drug testing program for probationers,
19 parolees and persons placed on extended supervision. The rules shall provide for
20 assessment of fees upon probationers, parolees and persons placed on extended
21 supervision to partially offset the costs of the program.

22 ***-1665/P1.1*** SECTION 10. 301.03 (3) of the statutes is amended to read:

department
(4r) and
the earned
release
commission may
discharge
inmates from extended
supervision under
s. 973.01

~~301.03 (3) Administer parole, extended supervision and probation matters, except that the decision to grant or deny parole to inmates shall be made by the parole commission and the decision to revoke probation, extended supervision or parole in cases in which there is no waiver of the right to a hearing shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. The department may discharge individuals from extended supervision under s. 973.01 (4m). The department shall promulgate rules establishing a drug testing program for probationers, parolees and persons placed on extended supervision. The rules shall provide for assessment of fees upon probationers, parolees and persons placed on extended supervision to partially offset the costs of the program.~~

-1664/P1.10 SECTION 11. 301.048 (2) (am) 3. of the statutes is amended to read:

301.048 (2) (am) 3. The parole earned release review ✓ commission grants him or her parole under s. 304.06 and requires his or her participation in the program as a condition of parole under s. 304.06 (1x).

-1664/P1.11 SECTION 12. 301.21 (1m) (c) of the statutes is amended to read:

301.21 (1m) (c) Any hearing to consider parole ✓ or whether to grant extended supervision, if the inmate is sentenced under s. 973.01 to which an inmate confined under this contract may be entitled by the laws of Wisconsin will be conducted by the Wisconsin parole earned release review ✓ commission under rules of the department.

-1664/P1.12 SECTION 13. 301.21 (2m) (c) of the statutes is amended to read:

301.21 (2m) (c) Any hearing to consider parole or whether to grant extended supervision, if the prisoner is sentenced under s. 973.01 ✓ to which a prisoner confined under a contract under this subsection may be entitled by the laws of Wisconsin shall

1 be conducted by the Wisconsin parole earned release review commission under rules
2 of the department.

3 ²
-1664/P1.13 SECTION 14. 302.045 (3) of the statutes is amended to read:

4 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department
5 determines that an inmate serving a sentence other than one imposed under s.
6 973.01 has successfully completed the challenge incarceration program, the parole
7 earned release review ✓ commission shall parole the inmate for that sentence under
8 s. 304.06, regardless of the time the inmate has served. When the parole ✓
9 release review commission grants parole under this subsection, it must require the
10 parolee to participate in an intensive supervision program for drug abusers as a
11 condition of parole.

12 ²
-1664/P1.14 SECTION 15. 302.05 (3) (b) of the statutes is amended to read:

13 302.05 (3) (b) Except as provided in par. (d), if the department determines that
14 an eligible inmate serving a sentence other than one imposed under s. 973.01 has
15 successfully completed a treatment program described in sub. (1), the parole ✓
16 release review commission shall parole the inmate for that sentence under s. 304.06,
17 regardless of the time the inmate has served. If the parole earned release review
18 commission grants parole under this paragraph, it shall require the parolee to
19 participate in an intensive supervision program for drug abusers as a condition of
20 parole.

21 ²
-1664/P1.15 SECTION 16. 302.11 (1g) (b) (intro.) of the statutes is amended
22 to read:

23 302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive
24 mandatory release date reaches the presumptive mandatory release date specified
25 under par. (am), the parole earned release review ✓ commission shall proceed under

1 s. 304.06 (1) to consider whether to deny presumptive mandatory release to the
2 inmate. If the parole earned release review commission does not deny presumptive
3 mandatory release, the inmate shall be released on parole. The parole earned release
4 review commission may deny presumptive mandatory release to an inmate only on
5 one or more of the following grounds:

6 ²
-1664/P1.16 SECTION 17. 302.11 (1g) (b) 2. of the statutes is amended to read:

7 302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or
8 treatment that the social service and clinical staff of the institution determines is
9 necessary for the inmate, including pharmacological treatment using an
10 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious
11 child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review
12 commission may not deny presumptive mandatory release to an inmate because of
13 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

14 ²
-1664/P1.17 SECTION 18. 302.11 (1g) (c) of the statutes is amended to read:

15 302.11 (1g) (c) If the parole earned release review commission denies
16 presumptive mandatory release to an inmate under par. (b), the parole earned
17 release review commission shall schedule regular reviews of the inmate's case to
18 consider whether to parole the inmate under s. 304.06 (1).

19 ²
-1664/P1.18 SECTION 19. 302.11 (1g) (d) of the statutes is amended to read:

20 302.11 (1g) (d) An inmate may seek review of a decision by the parole earned
21 release review commission relating to the denial of presumptive mandatory release
22 only by the common law writ of certiorari.

23 ²
-1664/P1.19 SECTION 20. 302.11 (1m) of the statutes is amended to read:

1 302.11 (1m) An inmate serving a life term is not entitled to mandatory release.
2 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release
3 review commission may parole the inmate as specified in s. 304.06 (1).

4 ***-1664/P1.20*** SECTION 21. 302.11 (7) (c) of the statutes is amended to read:

5 302.11 (7) (c) The parole earned release review commission may subsequently
6 parole, under s. 304.06 (1), and the department may subsequently parole, under s.
7 304.02, a parolee who is returned to prison for violation of a condition of parole.

8 ***-1665/P1.2*** SECTION 22. 302.113 (2) of the statutes is renumbered 302.113

9 (2) (a) and amended to read:

10 302.113 (2) (a) Except as provided in par. (b) and subs. (3) and (9), an inmate
11 subject to this section is entitled to release to extended supervision after he or she
12 has served the term of confinement in prison portion of the sentence imposed under
13 ss. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)
14 1., 302.05 (3) (c) 2. a., or 973.195 (1r), if applicable.

15 ~~***-1664/P1.21*** SECTION 23. 302.113 (2) of the statutes is amended to read:~~

16 302.113 (2) Except as ~~provided~~ in subs. (3) and (9), an inmate subject to this
17 section is entitled to release to extended supervision after he or she has served the
18 term of confinement in prison portion of the sentence imposed under s. 973.01, as
19 modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1., or 302.05
20 (3) (c) 2. a., or 973.195 (1r), if applicable, or as adjusted by the earned release review
21 commission under s. 304.06 (1) (b).

22 ***-1665/P1.3*** SECTION 24. 302.113 (2) (b) of the statutes is created to read:

23 302.113 (2) (b) An inmate subject to this section shall be released to extended
24 supervision after he or she has served 66 percent of the term of confinement in prison
25 portion of the sentence imposed under s. 973.01, as modified by the sentencing court

Insert 8.7
Strike only
Except as provided in sub. (3), the department shall release an inmate subject to this section

1 under sub. (9g) or s. 302.045 (3m) (b) 1. or 302.05 (3) (c) 2. a., if applicable, if the
2 inmate was convicted of a Class F to I felony that is not a violent offense, as defined
3 in s. 301.048 (2) (bm) 1.

4 ~~*-1664/P1.22* SECTION 25. 302.113 (7) of the statutes is amended to read:~~

5 ~~302.113 (7) Any inmate released to extended supervision under this section is~~
6 ~~subject to all conditions and rules of extended supervision until the expiration of the~~
7 ~~term of extended supervision portion of the bifurcated sentence or until the~~
8 ~~department discharges the inmate under s. 973.01 (4r), whichever is appropriate.~~
9 ~~The department may set conditions of extended supervision in addition to any~~
10 ~~conditions of extended supervision required under s. 302.116, if applicable, or set by~~
11 ~~the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do~~
12 ~~not conflict with the court's conditions.~~

13 ~~*-1665/P1.4*~~ SECTION 26. 302.113 (7) of the statutes is amended to read:

14 302.113 (7) Any inmate released to extended supervision under this section is
15 subject to all conditions and rules of extended supervision until the expiration of the
16 term of extended supervision portion of the bifurcated sentence or until the
17 department discharges the inmate under s. 973.01 (4m), ✓ whichever is appropriate.
18 The department may set conditions of extended supervision in addition to any
19 conditions of extended supervision required under s. 302.116, if applicable, or set by
20 the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do
21 not conflict with the court's conditions.

22 *-1664/P1.23* SECTION 27. 302.113 (9) (c) of the statutes is amended to read:

23 302.113 (9) (c) A person who is subsequently released to extended supervision
24 after service of the period of time specified by the court under par. (am) is subject to
25 all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration

1 of the remaining extended supervision portion of the bifurcated sentence or until the
2 department discharges the person under s. 973.01 (4r), whichever is appropriate.

3 The remaining extended supervision portion of the bifurcated sentence is the total
4 length of the bifurcated sentence, less the time served by the person in confinement
5 under the bifurcated sentence before release to extended supervision under sub. (2)
6 and less all time served in confinement for previous revocations of extended
7 supervision under the bifurcated sentence.

8 ***-1665/P1.5*** SECTION 28. 302.113 (9) (c) ✓ of the statutes is amended to read:

9 302.113 (9) (c) A person who is subsequently released to extended supervision
10 after service of the period of time specified by the court under par. (am) is subject to
11 all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration
12 of the remaining extended supervision portion of the bifurcated sentence or until the
13 department discharges the person under s. 973.01 (4m), ✓ whichever is appropriate.

14 The remaining extended supervision portion of the bifurcated sentence is the total
15 length of the bifurcated sentence, less the time served by the person in confinement
16 under the bifurcated sentence before release to extended supervision under sub. (2)
17 and less all time served in confinement for previous revocations of extended
18 supervision under the bifurcated sentence.

19 ***-1664/P1.24*** SECTION 29. 302.114 (9) (c) ✓ of the statutes is amended to read:

20 302.114 (9) (c) A person who is subsequently released to extended supervision
21 under par. (bm) is subject to all conditions and rules under sub. (8) until the
22 expiration of the sentence or until the department discharges the person under s.
23 973.01 (4r), whichever is appropriate.

24 ***-1665/P1.6*** SECTION 30. 302.114 (9) (c) ✓ of the statutes is amended to read:

1 302.114 (9) (c) A person who is subsequently released to extended supervision
2 under par. (bm) is subject to all conditions and rules under sub. (8) until the
3 expiration of the sentence or until the department discharges the person under s.
4 973.01 (4m), whichever is appropriate.

5 *-1664/P1.25*

SECTION 31. 304.01 (title) of the statutes is amended to read:

6 304.01 (title) **Parole Earned release review commission and**
7 **commission chairperson; general duties.**

8 *-1664/P1.26*

SECTION 32. 304.01 (1) of the statutes is amended to read:

9 304.01 (1) The chairperson of the parole earned release review commission
10 shall administer and supervise the commission and its activities and shall be the
11 final ~~parole granting authority~~ for granting parole or release to extended
12 supervision, except as provided in s. 304.02.

13 *-1664/P1.27*

SECTION 33. 304.01 (2) (intro.) of the statutes is amended to
14 read:

15 304.01 (2) (intro.) The parole earned release review commission shall conduct
16 regularly scheduled interviews to consider the parole or release to extended
17 supervision of eligible inmates of the adult correctional institutions under the
18 control of the department of corrections, eligible inmates transferred under ch. 51
19 and under the control of the department of health services and eligible inmates in
20 any county house of correction. The department of corrections shall provide all of the
21 following to the parole earned release review commission:

22 *-1664/P1.28*

SECTION 34. 304.01 (2) (b) of the statutes is amended to read:

23 304.01 (2) (b) Scheduling assistance for parole interviews for prisoners who
24 have applied for parole or release to extended supervision at the correctional
25 institutions.

1 *-1664/P1.29* SECTION 35. 304.01 (2) (c) of the statutes is amended to read:

2 304.01 (2) (c) Clerical support related to the parole interviews for prisoners who
3 have applied for parole or release to extended supervision. ✓

4 *-1664/P1.30* SECTION 36. 304.01 (2) (d) of the statutes is amended to read:

5 304.01 (2) (d) Appropriate physical space at the correctional institutions to
6 conduct the parole interviews ✓ for prisoners who have applied for parole or release to
7 extended supervision.

8 *-1664/P1.31* SECTION 37. 304.06 (title) of the statutes is amended to read:

9 304.06 (title) **Paroles Release to parole or extended supervision from**
10 **state prisons and house of correction.**

11 *-1664/P1.32* SECTION 38. 304.06 (1) (b) of the statutes is amended to read:

12 304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.
13 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review
14 commission may parole an inmate of the Wisconsin state prisons or any felon or any
15 person serving at least one year or more in a county house of correction or a county
16 reforestation camp organized under s. 303.07, when he or she has served 25% of the
17 sentence imposed for the offense, or 6 months, whichever is greater. The earned
18 release review commission may release to extended supervision a person sentenced
19 under s. 973.01 for a Class F to Class I felony ✓ that is a violent offense, as defined in
20 s. 301.048 (2) (bm), after the person has served at least 75 ✓ percent of the term of
21 confinement in prison portion of the sentence. The earned release review
22 commission may release to extended supervision a person sentenced under s. 973.01
23 for a Class C to Class E felony after the person has served at least 85 percent of the
24 term of confinement in prison portion of the sentence. Except as provided in s. 939.62
25 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole earned release review

1 commission may parole an inmate serving a life term when he or she has served 20
2 years, as modified by the formula under s. 302.11 (1) and subject to extension under
3 s. 302.11 (1q) and (2), if applicable. The person serving the life term shall be given
4 credit for time served prior to sentencing under s. 973.155, including good time under
5 s. 973.155 (4). The secretary may grant special action parole releases under s.
6 304.02. The department or the parole earned release review commission shall not
7 provide any convicted offender or other person sentenced to the department's custody
8 any parole eligibility or evaluation for parole or release to extended supervision until
9 the person has been confined at least 60 days following sentencing.

10 ***-1664/P1.33***

SECTION 39. 304.06 (1) (bn) of the statutes is created to read:

11 304.06 (1) (bn) The earned release review commission may consider any of the
12 following as a ground for a petition under par. (b) for sentence reduction by a person
13 who is sentenced under s. 973.01 for a Class C to Class E felony or for a Class F to
14 Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm):

15 1. The inmate's conduct, efforts at and progress in rehabilitation, or
16 participation and progress in education, treatment, or other correctional programs
17 since he or she was sentenced.

18 2. The inmate is subject to a sentence of confinement in another state or the
19 inmate is in the United States illegally and may be deported.

20 3. Sentence adjustment is otherwise in the interests of justice.

21 ***-1664/P1.34***

SECTION 40. 304.06 (1) (br) of the statutes is created to read:

22 304.06 (1) (br) The earned release review commission may reduce the term of
23 confinement of a person who is sentenced under s. 973.01 for a [✓]Class C to Class E
24 felony or for a Class F to Class I felony that is a violent offense, as defined in s.
25 301.048 (2) (bm) only as follows:

No
scoring

Plain

in determining
whether to release to
extended supervision

1 1. If the inmate is serving the term of confinement in prison portion of the
2 sentence, a reduction in the term of confinement in prison by the amount of time
3 remaining in the term of confinement in prison portion of the sentence, less up to 30
4 days, and a corresponding increase in the term of extended supervision.

5 2. If the inmate is confined in prison upon revocation of extended supervision,
6 a reduction in the amount of time remaining in the period of confinement in prison
7 imposed upon revocation, less up to 30 days, and a corresponding increase in the term
8 of extended supervision.

9 ~~2~~
10 *-1664/P1.35* SECTION 41. 304.06 (1) (c) (intro.) of the statutes is amended to
11 read:

12 304.06 (1) (c) (intro.) If an inmate applies for parole or release to extended
13 supervision under this subsection, the parole earned release review commission
14 shall make a reasonable attempt to notify the following, if they can be found, in
15 accordance with par. (d):

16 ~~2~~
17 *-1664/P1.36* SECTION 42. 304.06 (1) (d) 1. of the statutes is amended to read:

18 304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons
19 under par. (c) 1. to 3. of the manner in which they may provide written statements
20 under this subsection, shall inform persons under par. (c) 3. of the manner in which
21 they may attend interviews or hearings and make statements under par. (eg) and
22 shall inform persons under par. (c) 3. who are victims, or family members of victims,
23 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)
24 or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input
in the parole decision-making process under par. (em) for parole or release to
extended supervision. The parole earned release review commission shall provide

SECTION 42

*or release to
extended supervision*

1 notice under this paragraph for an inmate's first application for parole or release to
2 extended supervision and, upon request, for subsequent applications for parole. ✓

3 ***-1664/P1.37*** SECTION 43. 304.06 (1) (e) of the statutes is amended to read:

4 304.06 (1) (e) The parole earned release review commission shall permit any
5 office or person under par. (c) 1. to 3. to provide written statements. The parole
6 earned release review commission shall give consideration to any written statements
7 provided by any such office or person and received on or before the date specified in
8 the notice. This paragraph does not limit the authority of the parole earned release
9 review commission to consider other statements or information that it receives in a
10 timely fashion.

11 ***-1664/P1.38*** SECTION 44. 304.06 (1) (eg) of the statutes is amended to read:

12 304.06 (1) (eg) The parole earned release review commission shall permit any
13 person under par. (c) 3. to attend any interview or hearing on the parole application
14 for parole or release to extended supervision of an applicable inmate and to make a
15 statement at that interview or hearing.

16 ***-1664/P1.39*** SECTION 45. 304.06 (1) (em) of the statutes is amended to read:

17 304.06 (1) (em) The parole earned release review commission shall promulgate
18 rules that provide a procedure to allow any person who is a victim, or a family
19 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) or
20 (2), or (3), 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the parole
21 decision-making process for parole or release to extended supervision.

22 ***-1664/P1.40*** SECTION 46. 304.06 (1) (f) of the statutes is amended to read:

23 304.06 (1) (f) The parole earned release review commission shall design and
24 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards
25 shall have space for these persons to provide their names and addresses, the name

1 of the applicable prisoner and any other information the parole earned release
2 review commission determines is necessary. The parole earned release review
3 commission shall provide the cards, without charge, to district attorneys. District
4 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.
5 These persons may send completed cards to the parole earned release review
6 commission. All commission records or portions of records that relate to mailing
7 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).
8 Before any written statement of a person specified in par. (c) 3. is made a part of the
9 documentary record considered in connection with a parole hearing for parole, or
10 release to extended supervision under this section, the parole earned release review
11 commission shall obliterate from the statement all references to the mailing
12 addresses of the person. A person specified in par. (c) 3. who attends an interview
13 or hearing under par. (eg) may not be required to disclose at the interview or hearing
14 his or her mailing addresses.

15 ***-1664/P1.41*** SECTION 47. 304.06 (1) (g) of the statutes is amended to read:

16 304.06 (1) (g) Before a person is released on parole or released to extended
17 supervision under this subsection, the parole earned release review commission
18 shall so notify the municipal police department and the county sheriff for the area
19 where the person will be residing. The notification requirement under this
20 paragraph does not apply if a municipal department or county sheriff submits to the
21 parole earned release review commission a written statement waiving the right to
22 be notified. If applicable, the department shall also comply with s. 304.063.

23 ***-1664/P1.42*** SECTION 48. 304.06 (1m) (intro.) of the statutes is amended to
24 read:

1 304.06 (1m) (intro.) The parole earned release review commission may waive
2 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of
3 the following circumstances:

4 *-1664/P1.43* SECTION 49. 304.06 (1q) (b) of the statutes is amended to read:

5 304.06 (1q) (b) The parole earned release review commission or the department
6 may require as a condition of parole that a serious child sex offender undergo
7 pharmacological treatment using an antiandrogen or the chemical equivalent of an
8 antiandrogen. This paragraph does not prohibit the department from requiring
9 pharmacological treatment using an antiandrogen or the chemical equivalent of an
10 antiandrogen as a condition of probation.

11 *-1664/P1.44* SECTION 50. 304.06 (1q) (c) of the statutes is amended to read:

12 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release
13 on parole under this subsection, the parole earned release review commission may
14 not consider, as a factor in making its decision, that the offender is a proper subject
15 for pharmacological treatment using an antiandrogen or the chemical equivalent of
16 an antiandrogen or that the offender is willing to participate in pharmacological
17 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

18 *-1664/P1.45* SECTION 51. 304.06 (1x) of the statutes is amended to read:

19 304.06 (1x) The parole earned release review commission may require as a
20 condition of parole that the person is placed in the intensive sanctions program under
21 s. 301.048. In that case, the person is in the legal custody of the department under
22 that section and is subject to revocation of parole under sub. (3).

23 *-1664/P1.46* SECTION 52. 304.06 (2m) (d) of the statutes is amended to read:

1 304.06 (2m) (d) The ~~parole~~ earned release review commission or the
2 department shall determine a prisoner's county of residence for the purposes of this
3 subsection by doing all of the following:

4 1. The ~~parole~~ earned release review commission or the department shall
5 consider residence as the voluntary concurrence of physical presence with intent to
6 remain in a place of fixed habitation and shall consider physical presence as prima
7 facie evidence of intent to remain.

8 2. The ~~parole~~ earned release review commission or the department shall apply
9 the criteria for consideration of residence and physical presence under subd. 1. to the
10 facts that existed on the date that the prisoner committed the serious sex offense that
11 resulted in the sentence the prisoner is serving.

12 ²
-1664/P1.47 SECTION 53. 304.071 (1) of the statutes is amended to read:

13 304.071 (1) The ~~parole~~ earned release review commission may at any time
14 grant a parole or release to extended supervision to any prisoner in any penal
15 institution of this state, or the department may at any time suspend the supervision
16 of any person who is on probation ~~or, parole, or extended supervision~~ to the
17 department, if the prisoner or person on probation ~~or, parole, or extended supervision~~
18 is eligible for induction into the U.S. armed forces. The suspension of parole,
19 extended supervision, or probation shall be for the duration of his or her service in
20 the armed forces; and the parole, extended supervision, or probation shall again
21 become effective upon his or her discharge from the armed forces in accordance with
22 regulations prescribed by the department. If he or she receives an honorable
23 discharge from the armed forces, the governor may discharge him or her and the
24 discharge has the effect of a pardon. Upon the suspension of parole, extended
25 supervision, or probation by the department, the department shall issue an order

1 setting forth the conditions under which the parole, extended supervision, or
2 probation is suspended, including instructions as to where and when and to whom
3 the ~~paroled~~ person on parole or extended supervision shall report upon discharge
4 from the armed forces.

5 ***-1664/P1.48*** SECTION 54. 809.30 (1) (c) of the statutes is amended to read:

6 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for
7 postconviction relief in a criminal case, other than an appeal, motion, or petition
8 under ss. 302.113 (7m), 302.113 (9g), 973.19, ~~973.195~~, 974.06, or 974.07 (2). In a ch.
9 980 case, the term means an appeal or a motion for postcommitment relief under s.
10 980.038 (4).

11 ***-1664/P1.49*** SECTION 55. 911.01 (4) (c) of the statutes is amended to read:

12 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or
13 rendition; sentencing, granting or revoking probation, modification of a bifurcated
14 sentence under s. 302.113 (9g), ~~adjustment of a bifurcated sentence under s. 973.195~~
15 ~~(1r)~~ ~~304.06 (1) (b)~~, or ~~973.01 (4r)~~, ^{(4m) or} issuance of arrest warrants, criminal summonses,
16 and search warrants; hearings under s. 980.09 (2); proceedings under s. 971.14 (1)
17 (c); proceedings with respect to pretrial release under ch. 969 except where habeas
18 corpus is utilized with respect to release on bail or as otherwise provided in ch. 969.

19 ***-1664/P1.50*** SECTION 56. 950.04 (1v) (f) of the statutes is amended to read:

20 950.04 (1v) (f) To have the parole earned release review commission make a
21 reasonable attempt to notify the victim of applications for parole or release to
22 extended supervision, as provided under s. 304.06 (1).

23 ***-1664/P1.51*** SECTION 57. 950.04 (1v) (gm) of the statutes is amended to read:

release to extended
supervision
under s.
302.113(2)(b) or

discharge
under s.

release to extended supervision ✓

SECTION 57 ✓

302.113(2)(b) or

1 950.04 (1v) (gm) To have reasonable attempts made to notify the victim of
2 petitions for sentence ^{strike} adjustment as provided under s. 973.195 (1r) (d) 304.06 (1) (b) ✓
3 or 973.01 (4r). ✓ discharge under s.

4 ~~*-1665/P1.7*~~ SECTION 58. 973.01 (4) of the statutes is repealed.

5 *-1664/P1.52* SECTION 59. 973.01 (4) of the statutes is amended to read:

6 973.01 (4) ~~NO GOOD TIME; EXTENSION~~ EXTENSION OR REDUCTION OF TERM OF
7 IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve
8 the term of confinement in prison portion of the sentence without reduction for good
9 behavior. The term of confinement in prison portion is subject to extension under s.
10 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a.,
11 302.113 (9g), or 973.195 (1r) 304.06 (1) (b). ✓

12 *-1665/P1.8* SECTION 60. 973.01 (4m) of the statutes is created to read:

13 973.01 (4m) GOOD TIME CREDIT TOWARD DISCHARGE FROM EXTENDED SUPERVISION.

14 Notwithstanding sub. (2) (d), a person convicted of a [✓] Class F to ^{Class} I felony that is not
15 a violent offense, as defined in s. 301.048 (2) (bm) 1., is eligible to earn good time
16 credit in the amount of one day for every day served without violating a rule or
17 condition of extended supervision. The department of corrections shall reduce the
18 length of the person's extended supervision to reflect good time earned by the person
19 under this subsection.

20 *-1664/P1.53* SECTION 61. 973.01 (4r) of the statutes is created to read:

21 973.01 (4r) APPLICATION FOR REDUCTION OF EXTENDED SUPERVISION. (a) 1.
22 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.
23 (1) for a Class F to Class I [✓] felony that is a violent offense, as defined in s. 301.048 (2)
24 (bm), may apply to the earned release review commission to have his or her period

1 of extended supervision reduced after he or she has served 75 percent of the extended
2 supervision portion of the sentence.

3 2. Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence
4 under sub. (1) for a Class C to Class E felony may apply to the earned release review
5 commission to have his or her period of extended supervision reduced after he or she
6 has served 85 percent of the extended supervision portion of the sentence.

7 (b) The earned release review commission may reduce the length of a person's
8 period of extended supervision if it finds that ^{the person has met the conditions of extended supervision and} a reduction is appropriate in light of
9 ~~the person's conduct, efforts at and progress in rehabilitation, participation and~~
10 ~~progress in education, treatment, or other correctional programs since he or she was~~
11 ~~sentenced, or if a reduction is otherwise in the interests of justice.~~ ✓

12 ***-1664/P1.54*** SECTION 62. 973.01 (7) of the statutes is amended to read:

13 973.01 (7) ~~NO DISCHARGE~~ DISCHARGE. The department of corrections may not
14 shall discharge a person who is serving a bifurcated sentence from custody, control
15 and supervision until when the person has served the entire bifurcated sentence, as
16 modified under sub. (4m) or s. 304.06 (1) (b), if applicable. 302.113(2)(b) or ✓

17 ***-1665/P1.9*** SECTION 63. 973.01 (7) ✓ of the statutes is amended to read:

18 973.01 (7) ~~NO DISCHARGE~~ DISCHARGE. The department of corrections may not
19 shall discharge a person who is serving a bifurcated sentence from custody, control
20 and supervision until when the person has served the entire bifurcated sentence, as
21 modified under sub. (4m) or s. 302.113 (2) (b) or 973.195 (1r), if applicable. ✓

22 ***-1664/P1.55*** SECTION 64. 973.01 (8) (a) 2. of the statutes is amended to read:

23 973.01 (8) (a) 2. The amount of time the person will serve in prison under the
24 term of confinement in prison portion of the sentence, and the date upon which the
25 person may apply for release to extended supervision under s. 304.06. ✓

is eligible
to be released
to extended
supervision
under s. 302.113
(2)(b) or
the date
upon which
the person

-1665/P1.10 SECTION 65. 973.01 (8) (a) 2. of the statutes is amended to read:

973.01 (8) (a) 2. The amount of time the person will serve in prison under the term of confinement in prison portion of the sentence, including the date the person is eligible to be released to extended supervision under s. 302.113 (2) (b), if applicable.

-1664/P1.56 SECTION 66. 973.01 (8) (a) 3. of the statutes is amended to read:

973.01 (8) (a) 3. The amount of time the person will spend on extended supervision, assuming that the person does not commit any act that results in the extension of the term of confinement in prison under s. 302.113 (3), and the date upon which the person may apply for a reduction of his or her period of extended supervision under sub. (4r). *be eligible for discharge under sub. (4m) or*

-1665/P1.11 SECTION 67. 973.01 (8) (a) 3. of the statutes is amended to read:

973.01 (8) (a) 3. The amount of time the person will spend on extended supervision, assuming that the person does not commit any act that results in the extension of the term of confinement in prison under s. 302.113 (3). The court shall state the total amount of time the person will spend on extended supervision if he or she is eligible for, and earns, good time credit under sub. (4m).

-1664/P1.57 SECTION 68. 973.195 (1g) of the statutes is repealed.

-1664/P1.58 SECTION 69. 974.07 (4) (b) of the statutes is amended to read:

974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing addresses from completed information cards submitted by victims under ss. 51.37 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f), 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections, the parole earned release review commission, and the department of health services shall, upon request, assist clerks of court in obtaining information regarding the

1 mailing address of victims for the purpose of sending copies of motions and notices
2 of hearings under par. (a).

3 ***-1664/P1.59*** SECTION 70. 976.03 (23) (c) of the statutes is amended to read:

4 976.03 (23) (c) The application shall be verified by affidavit, shall be executed
5 in duplicate and shall be accompanied by 2 certified copies of the indictment
6 returned, or information and affidavit filed, or of the complaint made to a judge,
7 stating the offense with which the accused is charged, or of the judgment of
8 conviction or of the sentence. The prosecuting officer, parole earned release review
9 commission, warden or sheriff may also attach such further affidavits and other
10 documents in duplicate as he, she or it deems proper to be submitted with the
11 application. One copy of the application, with the action of the governor indicated
12 by endorsement thereon, and one of the certified copies of the indictment, complaint,
13 information and affidavits, or of the judgment of conviction or of the sentence shall
14 be filed in the office of the governor to remain of record in that office. The other copies
15 of all papers shall be forwarded with the governor's requisition.

16 (END)

d-note
↓

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P1ins
PJH:.....

INSERT 8.7:

SECTION 1. 302.113 (1) of the statutes is amended to read:

* 302.113 (1) An inmate is subject to this section if he or she was convicted of a
* Class B felony or a Class F to I felony that is not a violent offense, as defined in s.
301.048 (2) (bm) 1. and is serving a bifurcated sentence imposed under s. 973.01. An
* inmate convicted of a Class C to E felony or a Class F to I felony that is a violent
offense, as defined in s. 301.048 (2) (bm) 1. may only be released to extended
supervision under s. 304.06. (end ins 8.7)

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42.

INSERT 9.3:

SECTION 2. 302.113 (3) (d) of the statutes is amended to read:

302.113 (3) (d) If the term of confinement in prison portion of a bifurcated
sentence for a Class B felony is increased under this subsection, the term of extended
supervision is reduced so that the total length of the bifurcated sentence does not
change.

History: 1997 a. 283; 2001 a. 16, 109; 2003 a. 33; 2005 a. 42.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1768/P1dn

PJH:.....

date

jd

Leah,

This is the compiled LRB ²⁰⁰⁹09-1664 and LRB ²⁰⁰⁹09-1665. Please note that, if this draft is to be included in the budget, the other two drafts must come out.

Please note that I amended s. 302.113 (1) to specify that only Class B and nonviolent Class F to I felonies are eligible for release to extended supervision under s. 302.113. Class C to E and violent Class F to I felonies are only eligible for release to extended supervision under s. 304.06. Please also note the change to s. 302.113 (3) (d).

I will be in Sunday, January 25, so if you have any questions or comments on this draft, please leave a voice message for me.

Peggy Hurley
Legislative Attorney
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Hurley, Peggy

From: Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]
Sent: Saturday, January 24, 2009 2:06 PM
To: Hurley, Peggy
Cc: Wavrunek, Leah J - DOA; Silver, Karina B - DOA
Subject: good time

Peggy,

We are in no way trying to draft this ourselves, but it was the easiest way to try to explain what we are looking for. Take a look, think it over, and let us know what you think.

SECTION 3. 302.113 (2) (b) of the statutes is created to read:

302.113 (2) (b) A person convicted of a Class F to I felony that is not a violent felony as defined by s. 301.048(2)(bm)1, and who is not a violent offender as defined by s. 16.964(12) is eligible to earn good time credit in the amount of one day for every two days served without incurring sanctions as determined by the department. The inmate shall be released to extended supervision when the term of confinement in prison equals time served plus good time credits earned. This section applies to a sentence imposed under s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045(3m)(b)1. or 302.05(3)(c)2., if applicable.

01/25/2009

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P1dn
PJH:jld:ph

January 24, 2009

Leah,

This is the compiled 2009 LRB-1664 and 2009 LRB-1665. Please note that if this draft is to be included in the budget, the other two drafts must come out.

Please note that I amended s. 302.113 (1) to specify that only Class B and nonviolent Class F to Class I felonies are eligible for release to extended supervision under s. 302.113. Class C to Class E and violent Class F to Class I felonies are only eligible for release to extended supervision under s. 304.06. Please also note the change to s. 302.113 (3) (d).

I will be in Sunday, January 25, so if you have any questions or comments on this draft, please leave a voice message for me.

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